CRIMINAL CAUSE FOR MOTION HEARING

BEFORE JUDGE: HURLEY, J. DATE: AUGUST 11, 2005 TIME: 1:30M-2:15

DOCKET NUMBER: CR-05-0237 TITLE: USA V. McCABE, et. al.

DEFT. NAME: JAMES MAINELLO DFT. #: 2
X PRESENT, ___ NOT PRESENT, X IN CUSTODY, ___ ON BAIL

ATTY FOR DEFT.: ANTHONY LA PINTA X CJA
___ PRESENT, ___ NOT PRESENT ___ RET
___ PDA

A.U.S.A.: JAMES MISKIEWICZ & JAMES McGOVERN DEPUTY CLERK: TRISH BEST

COURT REPORTER(S) OR ESR OPERATOR: PERRY AUERBACH

X CASE CALLED. KCE

X MOTION CONFERENCE HELD ON DEFENDANT 'S MOTION TO SEVER JAMES MAINELLO FROM COUNT 1 OF THE SUPERSEDING INDICTMENT.

X ARGUMENTS HEARD _ MOTION GRANTED. X MOTION DENIED. _ DECISION RESERVED.

X DECISION ENTERED INTO THE RECORD.

FOR THE REASONS STATED ON THE RECORD THE COURT DENIES DEFENDANT'S MOTION TO SEVER. DEFENDANT HAS NOT SHOWN THAT A SPECIFIC TRIAL RIGHT WILL BE PREJUDICED BY DELAYING THE TRIAL DATE; NOR HAS DEFENDANT SHOWN THAT A DELAY WILL CAUSE IRREPARABLE HARM IF A SEVERANCE IS NOT GRANTED.

THE JURY SELECTION AND TRAIL SCHEDULED FOR MONDAY AUGUST 15, 2005 IS CANCELLED. MAGISTRATE MICHAEL ORENSTEIN HAS BEEN ADVISED OF TRIAL CANCELLATION.

X STATUS CONFERENCE SET FOR AUGUST 24, 2005 AT 11:30 AM.

THE GOVERNMENT IS TO SUBMIT LETTER BRIEF IN SUPPORT OF IT'S POSITION THAT THE CASE SHOULD BE DEEMED COMPLEX BY AUGUST 19, 2005; DEFENDANT'S RESPONSE BY AUGUST 23,2005. THE MATTER OF COMPLEXITY WILL BE ADDRESSED AT THE 8/24 CONFERENCE.

X DEFT MAINELLO REMAIN IN CUSTODY.

OTHER: